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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,350	01/23/2004	Mark Hargett	150-P002	7081

7590

06/05/2006

Mark Hargett  
1250 Pleasant Hills  
Escondido, CA 92026

EXAMINER
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CAO, ALLEN T

ART UNIT	PAPER NUMBER
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2627

DATE MAILED: 06/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Applicati n N .</b>	<b>Applicant(s)</b>	
	10/763,350	HARGETT, MARK	
	<b>Examiner</b>	<b>Art Unit</b>	
	Allen T. Cao	2627	

**-- The MAILING DATE of this communication appears n the c ver sh et with the correspondence address --**

**Period f r Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 January 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing R view (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

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1. Claim 1 is objected to because of the following informalities: The term "removeably" in claim 1, line 5 should be changed to either --removable--or --removably--. Appropriate correction is required.
2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ma (US. 6,330,130 B1).

Ma discloses a device for cleaning a CD having a case means 12 including an inner area for holding cleaning pads (26, 28), upper and lower cleaning pads (26, 28) removable (inherently, the pads are attached to the inner area of the housing, see also column 2, lines 64-47) held in the inner area in a manner creating a cleaning area between the upper and lower cleaning pads, all as set forth in claims 1-2 and 5. Ma also discloses an outer cleaning surface covering an inner pliable material (26b, 28b) as recited in claims 3 and 5.

Ma, however, does not disclose that the case means has a length of at least 4.5 inches and a width no more than 2.75 inches as set forth in claims 1-2 and 5.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to indicate that the case means of Ma has a length of at least 4.5 inches and a width no more than 2.75 inches. To do so would have been an obvious change in side of the parts, no new or unobvious result is obtained from changing the

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side of the dimensions as set forth (notes that for the 4.5 inches is a most standard side of the regular disc/disk cartridge; and for the 2.75 inches might occurred in the “mini” disc/disk technology). Additionally, it has been held that changes in size and shape of parts of an invention in the absence of an unexpected result involves routine skill in the art. See In re Dailey, 93 USPQ 47 (CCPA 1966).

Regarding claim 4, Ma does not disclose that the inner pliable material is foam. Ma only discloses that the inner pliable material is fuzz (fibers).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to manufacture the inner pliable material of Ma with foam instead of fuzz .


The rational is as follows: One of ordinary skill in the art would have been motivated to make the inner pliable material of Ma with a foam material instead of fuzz (or fiber) through lab routine experimentation and reasonable optimization in order to improve the cleaning capacity of the pads. Additionally, it has been held to be within the general skill of a worker in the art to select a known material having different chemical bonding structures on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416 (CCPA 1960).

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Allen T. Cao whose telephone number is (571) 272-7569. The examiner can normally be reached on Mon - Thurs (7:30 - 6:00).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hoa T. Nguyen can be reached on (571) 272-7579. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Allen Cao  
Primary Examiner

AC  
May 29, 2006